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California Energy Commission
Dockets Unit, MS-4
1516 Ninth Street
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RE: Docket No. 09-Renew EO-01 – Comments on DRECP Draft Planning Agreement

Thank you for the opportunity to comment on the draft planning agreement for the Desert Renewable Energy Conservation Plan ("DRECP").

Formed in 2006 and incorporated as a non-profit organization in 2009, the Protect Our Communities Foundation ("POC") is dedicated to the promotion of a safe, reliable, economical, renewable, and environmentally responsible energy future for San Diego County. POC was initially focused on organizing property owners and communities into an effective and unified opposition to the Sunrise Powerlink transmission line project. Since then POC has continued this role and has coalesced into a positive and effective regional voice for smart energy – local generation and distribution of renewable and clean energy. POC is also deeply concerned with the State of California's misguided direction towards unnecessary harmful industrial energy development in natural desert areas and the related harmful transmission infrastructure through natural lands and communities.

POC shares the concerns and agrees with the issues raised by several conservation organizations in a letter to you last summer.[1] Their letter is hereby incorporated by reference.

[1] *See* letter from Audubon California et al. to the CEC dated July 2, 2009 commenting on preparation of the DRECP (attached).

Please consider the following additional comments as you finalize the planning agreement for the DRECP.

For the purposes of this letter: "BLM" means the U.S. Bureau of Land Management; "CEC" means the California Energy Commission; "CPUC" means the California Public Utilities Commission; "CEQA" means the California Environmental Quality Act; "DFG" means the California Department of Fish and Game; "NCCP" means Natural Communities Conservation Plan; "PV" mean photovoltaic, and; "RETI" means the Renewable Energy Transmission Initiative.

Revise Fundamentally Flawed Assumptions

We reject as inaccurate the following statement in the scope and goals section of the draft agreement: "To meet both the 2010 RPS requirement and the 2020 RPS target, new utility-scale renewable energy facilities must be developed." This primary assumption for the draft agreement and overall DRECP is flawed in that, when considered alongside the perceived need to prepare a large scale, overarching conservation plan for the siting of remote, large desert energy facilities, it strongly implies that most renewable energy must originate from such facilities. This conclusion should be revised and clarified to reflect the best available information that, in fact, local distributed PV facilities could practically provide the majority of required and targeted renewable energy by 2020 as summarized below.

Even if this inaccurate assumption is retained, state and federal lead agencies (whichever those may be) will be required for the purposes of NEPA and CEQA review of the DRECP to consider an action alternative focusing on development of local, distributed urban / suburban photovoltaic as a means to minimize impacts to natural desert lands and endangered species to the maximum extent practicable.[2]

California's ongoing renewable energy transmission siting process, known as the Renewable Energy Transmission Initiative, indicates the least-cost solar solution to reaching California's target of 33 percent renewable energy by 2020 would consist predominantly of local distributed PV. Why? Because state-of-the-art PV is more cost-effective than solar thermal, and tens of thousands of megawatts of PV could be added at the local level with little or no upgrading to the

[2] *See* letter from U.S. Environmental Protection Agency to the Argonne National Laboratory dated September 8, 2009 commenting on the DOE and BLM's proposed programmatic EIS for solar energy development (attached).

existing transmission system required. RETI makes the following points about state-of-the-art PV:3

> There is considerable commercial interest in utility-scale "thin film" (PV) systems. This sensitivity tests an alternate thin film technology for solar with capital costs of about $3,700/kWe (AC), roughly half that of tracking crystalline (PV). Notably, these (PV) capital costs are also lower than the large-scale solar thermal projects; therefore thin film solar is assumed to occur both at the distributed scale (20 MW) and also in large scale blocks (150 MW).

Unlike solar thermal technologies, PV can be deployed in urban and suburban areas in compatible dual-use applications that require no environmental trade-offs. Urban/suburban PV is more cost-effective than remote PV because it avoids the (1) high cost of new transmission lines and (2) high line losses, in the range of 15 percent, during peak demand periods.

The RETI report goes on to say that distributed PV at a current state-of-the-art capital cost of $3.70/watt can provide two-thirds of what California needs going forward to reach 33 percent renewable energy by 2020:

The results of this sensitivity run are dramatic. More importantly, the cost-competitive in-state (distributed PV resources) increase by more than 20 times to about 45,000 GWh/yr. This figure is over two-thirds of the net short requirement. The large majority of these (distributed) resources are 20 MW solar PV projects assumed to connect to the distribution system.

RETI explained the genesis of the $3.70/watt thin-film PV capital cost value as:[4]

> An "alternate scenario" was proposed in the report (Section 3.8) to test lower future solar costs. Black & Veatch will run this scenario for thin film photovoltaic systems with a capital cost of $2,700/kWe to $3,500/kWe. This is based on module costs of $1,500/kWe to $1,700/kWe and "balance of system" costs of $1,200/kWe to $1,800/kWe. These module costs are based on First Solar's 2010 target production cost of $0.90/watt (dc). Balance of system includes inverters, installation, mounting systems and site costs."

First Solar states its average panel production cost is the second quarter of 2009 was $0.87/watt (dc), slightly less than the $0.90/watt (dc) price basis used by Black & Veatch to

[3] *See* California Energy Commission, RETI Phase 1B Final Report, January 5, 2009, p. 5-27, p. 5-28
[4] *See* RETI Phase 1A Final Report, August 2008, Appendix B, p. 5-5.

establish a $2,700/kWe to $3,500/kWe price range for thin-film PV in the RETI process.[5] Therefore use of a $3.70/watt (capital cost appears conservative for thin-film PV in 2009.

In February 2009 RETI reduced its estimate of the gap that must be filled to reach 33 percent by 2020, such that 45,000 gigawatt hours per year (GWh/yr) from distributed PV could meet 75 percent of the need.

The November 2008 Los Angeles Department of Water & Power (LADWP) "Solar Los Angeles" strategic plan is a good real-world example of a renewable energy future that leads with distributed urban PV.[6] The plan consists of 780 megawatts of urban PV and 500 megawatts of remote solar. This is two-thirds urban solar, one-third remote solar. With this urban/remote balance little if any new transmission will be necessary for the City of Los Angeles to go solar. LADWP is a public utility and "Solar Los Angeles" reflects the intent of the City of Los Angeles to become a leader in smart and urban renewable energy development.

Southern California Edison's 500 MW urban warehouse PV project in San Bernardino and Riverside, approved by the CPUC in June 2009, is based on the same PV technology (First Solar) and pricing that RETI indicates should lead to distributed/urban PV dominating solar development in California to meet RPS goals.[7] As the SCE project demonstrates, utility-scale PV installations can be built in urban areas just as cost-effectively as they can in the desert with none of the environmental impacts.

Clarify Agency Permitting Roles

As drafted the planning agreement includes contradictory statements on the roles of the CEC and DFG in permitting the take of state listed species under the DRECP. For example, section 2.4 of the agreement states, "Given its exclusive permitting jurisdiction, the CEC will not and need not apply to DFG for a permit pursuant to Fish and Game Code section 2835." In seeming contrast, section 3.2 of the agreement states, "Upon approval of the DRECP and pursuant to the NCCPA, DFG and CEC will issue Incidental Take Authorization and may provide assurances consistent with their statutory authority.

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[5] *See* First Solar Oct 09 fact sheet: http://www.firstsolar.com/pdf/FS_Company_FastFacts_MD-5-601-NA.pdf
[6] *See*: http://mayor.lacity.org/stellent/groups/electedofficials/@myr_ch_contributor/documents/contributor_web_content/lacity_004982.pdf
[7] *See* CPUC Decision 09-06-049, June 18, 2009. See: http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/102730.htm

The planning agreement should be revised to clarify under precisely what law or laws take authorizations for state listed species will be permitted. Given commitments in the agreement that the DRECP will be prepared as a NCCP and that DFG will be fully involved in preparation of the plan, then there should be no practical reason for an unusual and unnecessary removal of DFG's normal permitting authority under the Fish and Game code in favor of CEC permitting under the Warren-Alquist Act.

We would object to delegation of ultimate species take permitting authority entirely to the CEC as this agency has no mission, experience, or resources to reasonably carry out such authority. Such delegation would also raise serious questions about the legality of intended regulatory assurances by DFG – If DFG's normal authority to issue take permits is removed then likely so too is DFG's authority to issue regulatory assurances.

Clarify Intent to Abide by NCCP Act

Conflicting statements in the agreement over agency permitting roles leads to additional confusion on whether the CRECP will abide by the terms of the NCCP Act. That is, DFG is the agency with sole permitting authority under the NCCP but in the case of the DRECP the CEC may be the sole species take permitting authority. So is CEC's intent to prepare the DRECP as an NCCP strictly voluntary? Because the draft agreement clearly states the intent to prepare the DRECP as an NCCP the agreement should be clarified and simplified to read that DFG will be the sole species take permitting authority and that the DRECP will be in full compliance with the NCCP Act.

Delay Interim Projects in Highly Sensitive Areas

We appreciate draft agreement language in section 8.9 to, "…help ensure that new renewable energy projects approved or initiated in the Planning Area before completion of the DRECP are consistent with the preliminary conservation objectives (Section 6) and do not compromise successful completion and implementation of the DRECP". However, subsequent language to, "ensure that processing of such interim projects is not unduly delayed during preparation of the DRECP" greatly undermines the agreements apparent fundamental goal to prepare a sound DRECP – Some projects will simply cause too much harm to natural desert environments and allowing them to proceed during preparation of the DRECP would greatly undermine the viability and legitimacy of the plan. Because of this, participating agencies should conduct an

initial review with a scientific panel of experts to identify those pending projects that could undermine the DRECP and place these projects on hold pending completion of the plan.

Improve Opportunities for Public Participation

As currently drafted, the internal preparation process for the DRECP is limited to an Executive Steering Committee of participating agencies. Proponents of interim projects would presumably have direct access to the committee and agencies as their projects are processed and considered as part of the DRECP framework for interim projects.

Public and stakeholder participation in the DRECP should be improved and expanded to provide equal access to decision makers, particularly with respect to consideration of interim projects. The normal National Environmental Policy Act, Endangered Species Act, California Environmental Quality Act, etc. processing of interim projects that is anticipated to occur parallel to preparation of the DRECP will not suffice for this purpose – These parallel processes will not provide the public and stakeholders with an official forum for consideration of their views as part of the DRECP framework for consideration of interim projects.

Reasonably expanded public and stakeholder participation could be provided either by establishing a stakeholder Steering Committee that includes conservation organizations and other interest groups or by establishing an advisory committee on interim projects to the agreement's proposed Executive Steering Committee. In particular it will be crucial to provide a transparent process and timely notification and opportunity for comment to stakeholders and the public addressing the treatment of interim projects as these could drastically affect the outcome of the DRECP.

Modify Boundaries of Planning Area

As currently drafted, the planning area for the DRECP includes areas that are totally unsuitable for the plan and inexplicably excludes others that are suitable. For example, the Forest Service is not a party to the DRECP and most southern California National Forest lands are not "desert" yet the planning area map appears to include extensive National Forest lands. Similarly, industrial energy development is not allowed on state park or National Park Service land and designated wilderness areas yet the planning area map shows detailed boundaries inclusive of these lands such as those in Anza-Borrego Desert State Park, Joshua Tree National Park, and others. Mapped boundaries of the DRECP should be revised to clearly exclude these lands.

Other lands are inexplicably excluded from the mapped boundaries of the DRECP – Lands that are in fact "desert", that fall under the jurisdiction of the BLM, and where there are proposed renewable energy developments such as those in the McCain Valley of southeastern San Diego County. We encourage the expansion of planning area boundaries to include BLM lands that are targeted for renewable energy development and that are located adjacent to the draft planning area.

Thank you for your consideration. Please contact David Hogan at 760 809-9244 with any questions on these comments.

Sincerely,

David Hogan

Bill Powers

Attachments:

Audubon California et al. comment letter
EPA comment letter